

## II. REMARKS

Claims 1 to 11 are pending and a requirement for restriction has been issued by the Office. In response to that Requirement for Restriction, Applicants are required to elect one Group for examination and several species within that Group. Applicants hereby elect, without traverse, to elect Group I, claims 1 to 6. The election of species and listing of claims that read on that election is provided below.

Applicants also request amendment of the specification to remove a typographical error appearing on page 29. Similarly, claim 6 has been amended to remove a typographical error. Claim 2 has been amended to utilize appropriate Markush language. New claims 12 to 15 also are requested to be added and examined. Support for the new claims is found on pages 34, 35 and 36 (Example 4) and Figures 1 and 2. An issue of new matter is not raised by these amendment and entry thereof is respectfully requested.

After entry of these amendments and election, claims 1- 6 and 12 to 15 are currently under examination. Examination on the merits of one independent and twelve total claims is respectfully requested.

### Requirement For Restriction

Restriction to one of the following groups of inventions was required under 35 U.S.C. §§ 121 and 372:

Group I:      Claims 1-6, drawn to methods for selecting a therapeutic regimen for treating a cancer by screening for a genomic polymorphism or genotype.

Group II: Claims 7-9, drawn to methods for treating neurotoxicity associated with cancer by administering a COX-2 inhibitor.

Group III: Claims 10 and 11, drawn to a method for determining if a patient is more likely to experience tumor recurrence after surgical removal by assaying for the expression level of a gene.

Applicants hereby provisionally elect without traverse to examine Group I, claims 1-6.

#### **Requirement For Election**

Should Applicant elect Group I, the Office required a species election to one of the following species under PCT Rule 13.1:

Species I: fluoropyrimidine

Species II: platinum

Applicants elect without traverse Species I, fluoropyrimidine.

The Office further restricted Group I to a species election of one of the following species under PCT Rule 13.1:

Species I: esophageal cancer

Species II: gastric cancer

Species III: colon cancer/colorectal cancer

Species IV: rectal cancer

Species V: lung cancer

Applicants select without traverse Species III, colon cancer/colorectal cancer.

The Office further required restriction under PCT Rule 13.1 to one of the following species:

Species I: thymidylate synthase

Species II: ERCC1

Species III: VEGF

Species IV: ERC1

Species V: XRCC-1

Species VI: human glutathione s-transferase P-1

Species VII: epidermal growth factor receptor gene

Species VIII: matrix metalloproteinase gene -1

Species IX: matrix metalloproteinase gene – 3

Species X: IL -8

Species XI: DPD

Species XII: CXC chemokine

Applicants elect without traverse Species II, ERCC1.

The Office also requested that Applicants identify the claims that read on the elected species. Applicants submit that claims 1 to 6 and 12-15 read on the elected species. Claims 2, 4, 12, 13 and 15 read on species election fluoropyrimidine. Claims 3, 13, 14 and 15 read on species election colon cancer/colorectal cancer. Claims 5, 13, 14 and 15 read on species election ERCC1.

### III. CONCLUSION

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted

herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

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